

1979 WL 42753 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 12, 1979

*1 Mr. Neal Forney
Assistant Director
South Carolina Court Administration
Post Office Box 11788
Columbia, South Carolina 29221

Dear Mr. Forney:

In a letter dated January 4, 1979 to this Office, you asked:

Can an arrest warrant be issued for a defendant who violates the conditions imposed pursuant to the provisions of [Section 17-15-10 et seq. of the 1976 Code](#) of Laws?

An earlier opinion of this Office addressed to you concerning bench warrants dated October 31, 1978 specifically stated:

It may also be noted that bench warrants, regardless of form, may not be used to initiate a criminal action. Instead, such may be used to bring a defendant back before a particular court for a specific purpose after the court has acquired jurisdiction over the defendant by virtue of a proper charging document. For instance, if a defendant was released on bond and failed to appear at the proper time for trial, a bench warrant may be used to bring the defendant back before the court. However, if the defendant having been released on bond pursuant to [Section 17-15-10](#) through [17-15-100 of the 1976 Code](#) of Laws was charged with failing to appear before the court as required, pursuant to [Section 17-15-90 of the Code](#), an arrest warrant would have to be issued to give a court jurisdiction to consider such a case. A bench warrant would not suffice as a charging document.

Hopefully, such provides an answer to your request.

Sincerely,

Charles H. Richardson
Assistant Attorney General

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